

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Conference Call**  
**Helena Headquarters**  
**1420 East Sixth Avenue**  
**Helena, Montana**  
**July 8, 2002**

**Commission Members Present:** Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; Darlyne Dascher, John Lane and Mike Murphy.

**Fish, Wildlife & Parks Staff:** Jeff Hagener, Director; Larry Peterman, Chief of Field Operations; Becky Engstrom, FWP Legal Counsel; and Alan Charles, Landowner Sportsmen Coordinator.

**Topic of Discussion:** Adoption of final ARM rules for HB 454 pertaining to contractual public elk hunting access agreements.

**Commission Chairman Dan Walker** called the meeting to order at 9:35 a.m.

**Jeff Hagener** said the department convened this conference call so the ARM rules can be finalized and adopted before the August commission meeting as that is when FWP must bring permit proposals to the Commission for action.

**Alan Charles** said each Commissioner should have received a copy of the adoption notice. The only change is in new rule II (ARM 12.9.902) pertaining to eligibility. The change is addition of "The department may consider enrollment of less than 2500 acres, as long as all other eligibility criteria are met." Only 10 people offered comments on the public notice and most pertained to the general philosophy behind this. Should the Commission approve this proposal, the notice will go to the Secretary of State by July 15 and be published on July 23.

**Chairman Walker** said at a hearing in Billings John Gibson expressed support. **Charles** said that support from the Wildlife Federation as well as from sportsmen's organizations is included in the formal comments they received. **Walker** suggested the department respond to John Gibson with thanks for the support. **Hagener** said the department would do that. **Commissioner Mulligan** asked about comment no. 11 suggesting a provision in the contracts allowing department employees access to enrolled property for enforcement and wildlife management monitoring purposes, similar to what is provided under block management. He asked if this mandate is only in block management contracts and if it has been strong enough. **Charles** said it is only in the contract and there is no specific wording in the rule that the landowner will allow department employees access to the enrolled property. He said it has not been a problem in the block management program. A strength of the program is that landowners know FWP employees can enter the property to assist with enforcement or other things if necessary. **Commissioner Dascher** said she agreed that it has worked well in block management. If they refuse access, landowners know they can be withdrawn from the block management program. **Charles** said Becky Engstrom, Legal Counsel, confirms this. Landowners know that is a condition of the contract, and if it is cancelled they do not have the ability to participate in the program.

**Engstrom** mentioned that FWP has the authority to disallow a permit in subsequent years, but it would continue in the current year, according to the language in the statute.

**Commissioner Murphy** asked if the statute said anything about a minimum number of acres. **Charles** said a landowner must do what is necessary to accommodate successful public hunting. The law only

addresses the property being large enough, in the department's opinion, to do that. **Murphy** asked if the landowner meets all other terms, do they need to talk about acreage? **Charles** said he, Don Childress, Wildlife Division Administrator, Paul Sihler of Field Services and some regional staff felt it imperative to set a minimum number of acres to enroll in the program. This is just a tool designed to improve management of elk by harvesting more elk. This is going out as a trial and is the basis for the proposal. **Hagener** mentioned that in the last legislative session acreage was a big part of the debate. It would have to go out for public comment if it is changed now. **Charles** said none of the landowner comments raised the issue of the minimum acreage requirement. **Murphy** said he brought up the issue because it appears to him that this first says there must be some minimum acreage, and then it says it isn't a requirement.

**Mulligan** said if there is an exception, it must offer significant public benefit. A small number of acres could add to increased property subdivision with people buying property for the elk that are there, and later selling the land for subdivision. **Commissioner Lane** agreed with Commissioner Mulligan, couldn't see a reason to change it and feels it should be left just the way it is now. **Mulligan** said the department should accept very few exceptions to the 2500-acre minimum. The objective was not to open this to most anyone. The objective was harvesting more elk where access has been a problem. **Lane** asked if this would be used instead of game damage permits. **Charles** said this has no direct ties to game damage. It is a management tool to target areas where there is inadequate harvest because of lack of access. **Walker** said he considers this a landowner permit program opportunity, and the potential to take at least five animals requires a minimum of 2500 acres.

**Murphy** said he only questions the last sentence. **Hagener** said it is fairly clear that only in extreme situations will less than 2500 acres be considered, and the landowner must meet all other eligibility criteria. **Charles** said that should these rules be approved and requests be brought to the Commission in August, any concerns could be addressed there. **Mulligan** asked if language would be written into a contract about Commission approval. **Charles** said they would not formalize a contract until the Commission approves issuance of permits. Contracts would have language to that effect. **Mulligan** said their intent definitely is not to make landowners angry. Suggested keeping the respective Commissioner advised of any contract in their region. **Charles** agreed that was a good idea.

***Action:** Commissioner Dascher moved approval of the department recommendation to adopt new rules I (ARM 12.9.901), III (ARM 12.9.905), IV (ARM 12.9.908), V (ARM 12.9.911) and II with changes (ARM 12.9.902). Commissioner Lane seconded the motion. Motion carried unanimously.*

Adjourned at 10:15 a.m.

Approved this 8<sup>th</sup> day of August, 2002

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**Dan L. Walker, Chairman**

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**M. Jeff Hagener, Director**